

1 JACK S. SHOLKOFF, CA Bar No. 145097
jack.sholkoff@ogletree.com
2 JENNIFER L. KATZ, CA Bar No. 258917
jennifer.katz@ogletree.com
3 OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.
4 400 South Hope Street, Suite 1200
Los Angeles, CA 90071
5 Telephone: 213-239-9800
Facsimile: 213-239-9045
6

Attorneys for Defendants
7 CARMAX AUTO SUPERSTORES WEST
COAST, INC. and CARMAX AUTO
8 SUPERSTORES CALIFORNIA, LLC

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11

12 DEREK MCELHANNON, ALEENA IQBAL,
CHRISTOPHER SYHARATH, RUBEN
13 SANTIAGO, and EMIL MILISCI, each
individually, and on behalf of all others
14 similarly situated,

15 Plaintiffs,

16 v.

17 CARMAX AUTO SUPERSTORES WEST
COAST, INC., a Virginia corporation;
18 CARMAX AUTO SUPERSTORES
CALIFORNIA, LLC, a Virginia limited
19 liability company; and DOES 1-50, inclusive,

20 Defendants.
21
22
23
24
25
26
27
28

Case No. 3:19-cv-00586-WHO

**STIPULATION AND ORDER
TO CONTINUE MAY 15, 2019 HEARINGS**

Complaint Filed: November 21, 2018
Removal Filed: February 1, 2019

1 Plaintiffs DEREK McELHANNON, ALEENA IQBAL, CHRISTOPHER SYHARATH,
2 RUBEN SANTIAGO, EMIL MILISCI, and MICHAEL LANTIS (collectively, "Plaintiffs") and
3 defendants Carmax Auto Superstores West Coast, Inc. and Carmax Auto Superstores California,
4 LLC (collectively, "CarMax") (together with Plaintiffs, the "Parties"), hereby stipulate and agree as
5 follows:

6 WHEREAS, on March 6, 2019, CarMax filed its Motion to Compel Arbitration, Dismiss
7 Class Claims, and Stay PAGA Claim Pursuant to the Federal Arbitration Act (9 U.S.C. § 3), or, in
8 the Alternative, to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6) (the
9 "Motion to Compel"), setting the Motion to Compel for hearing on April 16, 2019;

10 WHEREAS, after this matter was reassigned to Judge Orrick, CarMax re-noticed its Motion
11 to Compel to be heard in this Court on May 8, 2019, at 2:00 p.m.;

12 WHEREAS, on April 2, 2019, plaintiffs Aleena Iqbal and Emil Milisci filed a Motion to
13 Remand Matter to State Court (the "Motion to Remand"), setting the Motion to Remand for
14 hearing in this Court on May 15, 2019, at 2:00 p.m.;

15 WHEREAS, on April 3, 2019, CarMax filed a Motion to Strike Plaintiffs' Second
16 Amended Complaint for Damages (the "Motion to Strike"), setting the Motion to Strike for hearing
17 in this Court on May 8, 2019, at 2:00 p.m.;

18 WHEREAS, on April 15, 2019, the Court reset the hearing on CarMax's Motion to Compel
19 and Motion to Strike for May 15, 2019, at 2:00 p.m.;

20 WHEREAS, all briefing has been completed on the Motion to Compel, Motion to Remand,
21 and Motion to Strike;

22 WHEREAS, on April 29, 2019, the Parties participated in mediation in attempt to resolve
23 all or part of the instant matter. Although no resolution was reached on that date, at the conclusion
24 of the mediation session, the Parties agreed to continue discussing a possible resolution, and
25 therefore agreed that a temporary pause in the proceedings, through May 29, 2019, would
26 effectuate this process;

27 WHEREAS, the Parties therefore agreed that a short continuance of the hearings on the
28 Motion to Compel, Motion to Remand, and Motion to Strike would facilitate the Parties' efforts to

1 resolve this matter, and agreed to stipulate to continue the hearings until a mutually agreeable date
2 after May 29, 2019.

3 NOW, THEREFORE, Plaintiffs and CarMax HEREBY STIPULATE AND AGREE as
4 follows:

5 1. The hearings on the Motion to Compel, Motion to Remand, and Motion to Strike
6 shall be continued to June 12, 2019, at 2:00 p.m.

7 2. No further briefing on the Motion to Compel, Motion to Remand, and/or Motion to
8 Strike shall be permitted.

9 IT IS SO STIPULATED.

10 DATED: May ___, 2019

WHITEHEAD EMPLOYMENT LAW
McNICHOLAS & McNICHOLAS, LLP
CHRISTINA HUMPHREY LAW, P.C.

11
12
13
14
15 By: _____
Jacob N. Whitehead
Patrick McNicholas
Christina A. Humphrey

16
17 Attorneys for Plaintiffs DEREK McELHANNON,
18 ALEENA IQBAL, CHRISTOPHER SYHARATH,
RUBEN SANTIAGO, and EMIL MILISCI

19
20 DATED: May ___, 2019

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

21
22
23 By: _____
Jack S. Sholkoff
Jennifer L. Katz

24
25 Attorneys for Defendants
26 CARMAX AUTO SUPERSTORES WEST COAST,
27 INC. and CARMAX AUTO SUPERSTORES
28 CALIFORNIA, LLC

~~PROPOSED~~ ORDER

Good cause appearing, and pursuant to the stipulation of the parties, IT IS HEREBY
ORDERED that:

1. The hearings on the Motion to Compel (ECF No. 15), Motion to Remand (ECF No. 24), and Motion to Strike (ECF No. 25) shall be continued to June 12, 2019, at 2:00 p.m.
2. No further briefing on the Motion to Compel, Motion to Remand, and/or Motion to Strike shall be permitted.

DATED: May 7, 2019

By: 

Hon. William H. Orrick